

May 21, 2003

Honorable Judd Gregg  
Health, Education, Labor, and Pensions Committee  
United States Senate  
Washington, DC 20515

Dear Chairman Gregg,

As Montana's elected public officials, agencies, and organizations, we believe that the most significant educational issue before this Congress is the reauthorization of the Individuals with Disabilities Education Act (IDEA). We are writing to you requesting your support in helping us address three priority issues that will have a significant impact on the ability of Montana and other rural states to meet the needs of students with disabilities.

Montana is proud of the quality of special education services offered for children with disabilities. Because of the dedication of our teachers and administrators and the support that our schools enjoy from parents, Montana ranks favorably among states in key United States Department of Education performance indicators. Montana also enjoys one of the lowest rates of controversy in the form of special education complaints and due process hearings. In many ways, our success is attributable to the close bond between our public schools and our families, and the support from our rural communities.

There are many issues being debated in the reauthorization of IDEA that could result in a significant benefit in our ability to improve the quality of special education services. These issues include efforts to reduce paperwork, more flexible use of IDEA Part B funds for peripheral activities, options that would allow up to 10 states to seek waivers of additional paperwork requirements, and others.

We have identified the three key issues that we believe will have the greatest impact on our rural state. It is these three key issues where we seek your involvement. They are: 1) Highly Qualified Teachers, 2) Maintenance of Fiscal Effort in the Event of "Full Funding," and 3) IDEA Funds Available for State Administration and Set-aside. We have attached a summary of these issues for your review.

The three priority issues we have identified in reauthorization of IDEA will clearly make a difference in Montana's and other rural states' continued success in serving students with disabilities. Our sparse population and small school size present certain challenges and opportunities that call for flexibility in the use of funds and in the efficient use of our available personnel. As reauthorization of IDEA proceeds through Congress, we ask that you address these priority issues and support our proposed solutions.

We appreciate the opportunity to support congressional efforts toward the reauthorization of IDEA and appreciate your consideration of our collective suggestions. Please contact any of us at any time with questions.

Sincerely,

JUDY MARTZ  
Governor

LINDA MCCULLOCH  
Superintendent of Public Instruction

KIRK MILLER  
Chairman, Board of Public Education

ERIC FEAVER  
President, MEA-MFT

LANCE MELTON  
Executive Director, Montana School Boards Association

DAVE PUYEAR  
Executive Director, Montana Rural Education Association

DARRELL RUD  
Executive Director, School Administrators of Montana

CC: Senator Edward M. Kennedy, Ranking Member  
Senator Max Baucus  
Senator Conrad Burns  
Representative Dennis Rehberg  
Senator James Jeffords  
Senator John Ensign  
Senator Mike Enzi  
Senator Tom Harkin  
Senator Bill Frist  
Senator Pat Roberts  
Senator Jeff Bingaman  
Senator Lamar Alexander

## **Priority Issues in the Reauthorization of the Individuals with Disabilities Education Act (IDEA)**

### **Highly Qualified Teachers**

H.R. 1350 incorporates many of the components of the Elementary and Secondary Education Act (ESEA). While a number of the components of ESEA are problematic for rural states, perhaps the most problematic components for special education in small population rural states is the provision incorporated in HR 1350 that requires special education teachers who teach in core academic subjects to be highly qualified in those subjects and the ESEA provision for qualifications for paraprofessionals.

If the sheer number of small rural schools is used as the indicator, Montana is perhaps one of the most rural states in the nation. Over one-third of Montana's high school and K-12 districts have only one special education teacher. Many of these high schools share the same teacher with the elementary school. Almost one-half of Montana's high school and K-12 districts have two or fewer special education teachers.

It is an admirable goal to have highly qualified teachers in core academic subjects. However, to expect a district's sole special education teacher to meet these criteria in all subject areas in addition to all of the specialized skills required for serving students with disabilities creates a requirement that is next to extremely difficult for a rural district to fulfill. We believe that it is possible to provide our students with highly qualified teachers provided that schools are able to effectively leverage all district resources to serve our students through a team approach.

People in rural America know how to rely on one another and how to utilize each other's strengths to address the challenges we face. We are used to working together as a team, using resources wisely, and bringing to bear the collective wisdom of a group to solve a problem. It is through our team of teachers and our paraprofessionals working together in the spirit of mutually supportive instruction for our students that we believe we can provide our students with the best possible educational opportunity.

**Proposal:** 1) Revise language contained in HR 1350, Section 202(14)(B)(i), to read: "ensure that special education teachers who teach in core subjects are highly qualified in those subjects or provide the instruction through collaboration with teachers who are highly qualified in those subjects." 2) Modify ESEA requirements by revising current IDEA law to permit flexibility in the requirements for qualification for paraprofessionals provided that their services are under the direct supervision of a qualified special education teacher.

### **Maintenance of Fiscal Effort in the Event of "Full Funding"**

Providing students with disabilities a high-quality special education program is an expensive proposition. While we are grateful for recent increases provided in Congress, we continue to ask that Congress establish a mandatory spending provision in IDEA that will lead to a funding level that achieves 40 percent of the national average per pupil expenditure. We collectively agree, however, that increased funding to schools has limited value unless it is tied to a necessary change in the law in the area of maintenance of fiscal effort.

The maintenance of fiscal effort provision of current law can be particularly onerous in rural communities because of the natural variation from year to year in student needs and corresponding costs. Rural schools have less opportunity to the benefit from stability in year-to-year costs that comes from averaging costs over a larger population. Furthermore, the maintenance of fiscal effort provision of current law limits the ability of federal funding increases to properly rebalance the relative state, local, and federal partnership in covering the costs of special education. Under current law, only 20 percent of any year's increase in federal Special Education Part B funding can be treated as local funds for purposes of local maintenance of fiscal effort.

Many Montana schools are experiencing declines in student enrollment, resulting in declining general fund budgets. When maintenance of fiscal effort protects the special education portion of the general fund budget (state and local funds) from cuts, other areas of the budget are forced to absorb more than their share of cuts. Simultaneous to the cuts to the general fund budget, schools are experiencing growth in their Special Education Part B funds. This circumstance exacerbates the tension between special education and general education over limited resources and it triggers conflicts and jealousies between the programs. This situation will be amplified if the "40 percent promise" is fulfilled without a corresponding and necessary change to the maintenance of fiscal effort requirement.

**Proposal:** Revise current law to allow up to 100 percent of any increase in Part B funds to be used to reduce a local school district's maintenance of fiscal effort. District general funds made available to schools as a result of relief from fiscal effort should be limited for use to cover other educational costs without additional requirements to target those funds to a specific program. This added flexibility is necessary to rebalance the relative state, local, and federal contributions for special education by reversing the increases over the past decade in local expenditures for special education.

### **IDEA Funds Available for State Administration and State Set-aside**

State administration funds are determined by a base amount established in IDEA '97. Small population states receive a base amount of \$500,000 plus inflation. With the adoption of IDEA '97, states have seen increases in IDEA Part B funds

for administration limited to the rate of inflation. It is with this amount that our smallest of the small population states struggle to put together data collection systems, reporting structures, and fiscal accounting and distribution systems at a financial costs that is, at many times, no different than in a large state

Administration funds are the core source of revenue for the operation of each state special education department or division. Each state agency is responsible for ensuring that a Free Appropriate Public Education (FAPE) is available to every child with a disability residing in the state. Additionally, each state agency honors its fiduciary responsibility in the management, distribution, and accounting for use of all Part B funds. State education agency responsibilities include: fiscal, programmatic, supervision, and interagency coordination. While these responsibilities have grown significantly in range and scope since IDEA '97, available resources have been limited to the rate of inflation.

Similar to the limitations on funds available for state administration, states also have seen their increases in IDEA Part B set-aside funds limited to the rate of inflation. This limitation on funding has imposed severe restrictions in the ability of small states to address the many additional obligations that came with IDEA '97. This concern has been further amplified with recent increased obligations associated with data collection and accountability under NCLB and with acute personnel shortages that are now hitting our states with full force, especially small population rural states.

Set-aside funds serve as the primary source of fiscal resources available to states to address personnel shortages, program improvement, technical assistance, training, and direct and support services to schools. Each state has been granted the authority under IDEA to identify improvement strategies that will address the needs of their particular state. While the authority to identify improvement strategies rests with each state and IDEA allows states to utilize IDEA set-aside funds to implement those strategies, the funds available to meet these essential duties are limited. States have many ideas, creative ideas uniquely designed to meet the opportunities for improvement in a particular state, but small states are struggling to find the resources to implement these ideas. When these statewide concerns are not addressed, other areas of the school suffer when precious district funds are needed to address the same concerns that would have otherwise been handled more efficiently on a statewide basis.

**Proposal:** 1) Support provisions in HR 1350 that allow small population states to retain up to a minimum of \$750,000 of their Part B funds for administrative activities. 2) Revise current law to allow state educational agencies to retain up to 10 percent of the amount the state receives under IDEA Part B for direct and support services to schools.